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3
(Continued.)

4
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Attorneys for Defendant
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One Whitehall Street
7 New York, New York 10004
BY: PAUL F. CALLAN, ESQ.

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11 220 East 42nd Street
New York, New York 10017
12 BY: BRIAN OSTERMAN, ESQ.

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S T I P U L A T I O N S:

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto, that this examination may be sworn to before any Notary Public.

IT IS FURTHER STIPULATED AND AGREED that the filing and certification of the said examination shall be waived.

IT IS FURTHER STIPULATED AND AGREED that all objections to questions, except as to the form of the question, shall be reserved for the time of trial.

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1
2 MR. SMITH: Going on the record,
3 its 10:21. We are doing a continuation
4 deposition of the Kurt Duncan
5 deposition at my office, 111 Broadway
6 on June 23, 2014.

7 Would you please swear the
8 witness in.

9 K U R T D U N C A N, a Defendant herein,
10 having been first duly sworn by a Notary
11 Public within and for the State of New York,
12 was examined and testified as follows:

13
14 EXAMINATION BY

15 MR. SMITH:

16
17 Q. Will you state your name and
18 address for the record, please.

19 A. Sergeant Kurt Duncan, 100 Church
20 Street, New York, New York 10007.

21 Q. Good morning, Sergeant.

22 A. Good morning.

23 MR. SHAFFER: 10:23.

24 MR. SMITH: 10:23. I got the
25 time.

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1 KURT DUNCAN

2 Q. I know it's an informal process,
3 but you have been sworn to tell the truth
4 and like I said to you the last time, if you
5 there is anything about any of my questions,
6 please let me know and I will try and
7 rephrase it; okay?

8 A. Okay.

9 Q. Have you discussed your
10 testimony since the last time we met with
11 anybody?

12 A. No.

13 Q. Have you looked at any documents
14 since your deposition was taken in this
15 case?

16 A. No.

17 Q. Have you listened to any tape
18 recordings since your deposition?

19 A. No.

20 Q. Have you ever listened to the
21 tape recordings of the incident at
22 Schoolcraft's residence, where you and the
23 other members from the Brooklyn North, along
24 with the Marino and others went in the
25 apartment and eventually had him removed?

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KURT DUNCAN

1
2 weapon and had engaged in behavior that
3 Schoolcraft perceived as menacing. That
4 when he went home that day, that he reported
5 his concerns to IAB and what I want to know
6 from you is if you had known those facts,
7 would that have changed your view about
8 whether or not it was appropriate to comply
9 with Marino in order to cuff Schoolcraft?

MR. SHAFFER: Objection.

MR. KRETZ: Objection.

12 A. I would have still complied with
13 Marino's order to cuff him.

MR. SMITH: Thank you, Sergeant.

15 I don't have any more questions at this
16 time.

EXAMINATION BY

MR. OSTERMAN:

19 Q. Sergeant, I just have a few very
20 quick questions. I believe you testified at
21 your first deposition, the first session of
22 your deposition, that after the incident at
23 Schoolcraft's residence on October 31, 2009,
24 you went back to the 81; is that right?

25 A. Correct.

Page 270

1 KURT DUNCAN

2 Q. So you never went to Jamaica
3 Hospital?

4 A. No.

5 Q. And did you ever speak or have
6 any contact with any staff or physicians at
7 Jamaica Hospital regarding Adrian
8 Schoolcraft?

9 A. No, not me personally.

10 Q. Did you ever direct anyone to
11 speak to or have any contact with any staff
12 or physicians at Jamaica Hospital?

13 A. Not that I can recall.

14 Q. Are you familiar or do you
15 recognize the name Dr. Isakov?

16 A. Not particularly.

17 Q. Have any contact with Dr. Isakov
18 regarding Adrian Schoolcraft?

19 A. I don't remember.

20 Q. Do you recognize the name
21 Aldana-Bernier?

22 A. No, I don't.

23 Q. Did you have any contact with or
24 speak to Dr. Aldana-Bernier regarding Adrian
25 Schoolcraft?

Page 271

1 KURT DUNCAN

2 A. Not that I can recall.

3 MR. OSTERMAN: I have nothing
4 further.

5 EXAMINATION BY

6 MR. SHAFFER:

7 Q. Just a quick question. The
8 documents in front of you indicate the
9 subject at the top, I believe on all of them
10 it says attempt to serve restoration to duty
11 order. You see that?

12 A. Yes.

13 Q. And earlier you mentioned that
14 the purpose of your visits to Schoolcraft's
15 residence in Upstate, New York was to serve
16 him with a discontinuance of service form.
17 You remember saying that?

18 A. Yes.

19 Q. Are those two things the same or
20 are they different -- are they different
21 things?

22 MR. SMITH: Objection to the
23 form.

24 Q. Is a restoration to duty order
25 and a discontinuance of service form the

CERTIFIED TRANSCRIPT

Page 1

1 UNITED STATES DISTRICT COURT.
2 SOUTHERN DISTRICT OF NEW YORK

-----X

3 ADRIAN SCHOOLCRAFT,
4 Plaintiff,

5

Case No:

6 - against - 10 CV 06005

7

THE CITY OF NEW YORK, ET AL.,

8

9 Defendants.

-----X

11 111 Broadway
12 New York, New York

12

June 18, 2014

13 10:28 a.m.

14

15

16 DEPOSITION OF CHRISTOPHER BROSCART, pursuant
17 to Notice, taken at the above place, date and
18 time, before DENISE ZIVKU, a Notary Public
19 within and for the State of New York.

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13 Washington, D.C. 20002
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16 OFFICE OF CORPORATION COUNSEL
17 Attorneys for Defendant
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19 100 Church Street
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(Continued.)

Page 3

(Continued.)

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BY: GREGORY J. RADOMISLI, ESQ.

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MR. SMITH: Going on the record.

3

It is 10:28 and this is the deposition

4

of Lieutenant Broschart.

5

That's how you pronounce it.

6

THE WITNESS: Yes, Broschart.

7

MR. SMITH: And Mr. Callan has

8

called my office and said that it's

9

okay to proceed without him and would

10

you mind swearing in the witness.

11

C H R I S T O P H E R B R O S C H A R T, a

12

Defendant herein, having been first duly

13

sworn by a Notary Public within and for the

14

State of New York, was examined and

15

testified as follows:

16

17

EXAMINATION BY

18

MR. SMITH:

19

20

Q. Will you state your name and

21

address for the record, please.

22

A. Christopher Broschart,

23

B-r-o-s-c-h-a-r-t.

24

MS. PUBLICKER METTHAM: Work

25

address.

Page 6

1
2 A. 123-01 Roosevelt Avenue,
3 Queens, New York 11368.

4 MR. SMITH: Suzanna, as we've
5 done in the past, the Law Department
6 with accept service of any process
7 required on Mr. Broschart; is that
8 right?

9 MS. PUBLICKER METTHAM: To the
10 extent we still represent Mr. Broschart
11 and he's still employed by the NYPD, we
12 will accept service.

13 MR. SMITH: Otherwise, you will
14 provide me with his last known
15 information.

16 MS. PUBLICKER METTHAM: We will
17 provide you with his last known
18 address, correct.

19 MR. SMITH: Okay. Thanks.

20 Q. Good morning, Lieutenant.

21 A. Morning.

22 Q. My name is Nathaniel Smith. I
23 represent Adrian Schoolcraft in this
24 lawsuit. I am going to ask you some
25 questions this morning and this afternoon.

Page 7

1 CHRISTOPHER BROSCART

2 Few ground rules I would like to just go
3 over with you; is that okay?

4 A. Okay.

5 Q. First one is it's unlike regular
6 conversation. The court reporter needs to
7 take down everything that I say and you need
8 to just pause a little bit, so that your
9 attorney can object if she feels it's
10 appropriate and then you can answer the
11 question, but if you answer a question while
12 I am in the middle of laboring through it,
13 the court reporter has to stop taking down
14 what I'm saying and capture what you're
15 saying. So it's little bit awkward, but you
16 will get used to it.

17 A. Take my time.

18 Q. The most important thing is that
19 if you don't understand my question, please
20 let me know that and I will try to rephrase
21 it; okay?

22 A. I will.

23 Q. The reason why I say that is
24 because you've just been sworn to tell the
25 truth and it's important that the record be

Page 192

1 CHRISTOPHER BROSCART

2 telephone while you were there?

3 MS. PUBLICKER METTHAM:

4 Objection.

5 A. I wouldn't have let him use the
6 telephone while he was there.

7 Q. Why not?

8 A. Till he saw the doctor.

9 Q. Why wouldn't you let him use the
10 telephone?

11 MS. PUBLICKER METTHAM:

12 Objection.

13 A. At that time he's an EDP. He's
14 in our custody for that till the doctor
15 looks at him.

16 Q. He's not allowed to use the
17 telephone if he's an EDP?

18 MS. PUBLICKER METTHAM:

19 Objection.

20 A. Usually, I won't let an EDP use
21 the telephone when I'm in the hospital.

22 Q. Why?

23 MS. PUBLICKER METTHAM:

24 A. Sometimes it can actually be
25 used as a weapon.

Page 260

1 CHRISTOPHER BROSCART

2 relieve you, do you recall telling her that
3 he had cursed at his supervisor?

4 A. No, not at all.

5 Q. When you spoke to Sergeant James
6 at Jamaica Hospital, after she came to
7 relieve you, do you recall telling her that
8 he had been evaluated by an NYPD
9 psychiatrist and he could not carry a gun or
10 a badge for nearly a year?

11 A. Not at all.

12 Q. You don't recall that?

13 A. I never said such thing.

14 EXAMINATION BY

15 MR. LEE:

16 Q. Did you ever speak to a Dr.
17 Isakov?

18 A. I can't recall.

19 Q. Did you ever speak to Dr.
20 Aldana-Bernier at Jamaica Hospital?

21 A. I don't know which doctors I
22 spoke to.

23 Q. Other than the conversations
24 you've related with the one doctor that you
25 related Mr. Smith, did you have any other

Page 261

1 CHRISTOPHER BROSCART

2 conversations with any nursing or hospital
3 personnel?

4 A. Only people might be triage
5 people.

6 Q. Do you recall anything you said
7 to the triage people?

8 A. Not that I recall.

9 Q. Did you give any instructions to
10 anybody at the hospital as to what to do
11 with Schoolcraft?

12 A. No.

13 MR. LEE: That's all I have,
14 thank you.

15 EXAMINATION BY

16 MR. CALLAN:

17 Q. Is it accurate to say that is
18 the only day that you were at Jamaica
19 Hospital in connection with Mr. Schoolcraft,
20 the day that you described today?

21 A. Yeah, that one tour, yes. On
22 the third person.

23 MR. CALLAN: Okay.

24 MR. SMITH: Walter?

25 MR. KRETZ: No, I said I have

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 ADRIAN SCHOOLCRAFT,
5 Plaintiff,

6 Case No:
7 - against - 10 CV 06005

8 THE CITY OF NEW YORK, ET AL.,
9 Defendants.

10 -----X
11 111 Broadway
12 New York, New York

13 May 12, 2014
14 10:11 a.m.

15
16 DEPOSITION OF SHANTEL JAMES, pursuant to
17 Notice, taken at the above place, date and
18 time, before DENISE ZIVKU, a Notary Public
19 within and for the State of New York.
20
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24
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3 A P P E A R A N C E S:4
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6 Attorneys for Plaintiff
7 111 Broadway
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11 Attorneys for Plaintiff
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13 Washington, D.C. 20002
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16 OFFICE OF CORPORATION COUNSEL
17 Attorneys for Defendant
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(Continued.)

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BY: BRIAN OSTERMAN, ESQ.

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MR. SMITH: We are going on the record, it is 10:11. We are at my office at 111 Broadway, New York, New York. We are about to start the deposition of Shantel James.

7

THE WITNESS: Correct.

8

9

MR. SMITH: And can you swear in the witness, please.

10

11

12

13

14

15

S H A N T E L J A M E S, a Defendant herein, having been first duly sworn by a Notary Public within and for the State of New York, was examined and testified as follows:

16

EXAMINATION BY

17

MR. SMITH:

18

19

20

Q. Will you state your name and address for the record, please.

21

22

23

A. My name is Shantel James. My address 315 Hudson Street, New York, New York 10035.

24

25

MR. SMITH: All right, Ms. Mettham, as we have done in the past,

Page 6

1 SHANTEL JAMES

2 will you agree to accept service of any
3 process on behalf of Ms. James in the
4 event that such process is necessary?

5 MS. PUBLICKER METTHAM: If we
6 still represent Sergeant James at the
7 time of trial, we will accept service
8 of any trial subpoenas. If she is not,
9 we will facilitate the production of
10 the last known address.

11 MR. SMITH: And any other
12 information that serves to effectuate
13 service, reasonable and necessary?

14 MS. PUBLICKER METTHAM: Yes.

15 Q. Ms. James, you understand you're
16 under oath?

17 A. Yes, I do.

18 Q. You understand that you're a
19 defendant in this lawsuit?

20 A. Yes.

21 Q. Have you ever been deposed
22 before?

23 A. No.

24 Q. All right, I am sure your
25 counsel has explained to you some of the

Page 51

1 SHANTEL JAMES

2 Objection. You could answer.

3 A. I was advised by my immediate
4 supervisor for his safety. I am guarding
5 him for his safety is what I was told.

6 Q. Who told you that?

7 A. Lieutenant Anderson.

8 Q. How did Lieutenant Anderson say
9 that to you?

10 MS. PUBLICKER METTHAM:

11 Objection. You could answer.

12 A. He said Shantel, I need you to
13 go to the hospital and guard Schoolcraft for
14 his safety.

15 Q. Was this an in-person
16 conversation you had with Lieutenant
17 Anderson?

18 A. Yes.

19 Q. Where did that take place?

20 A. It took place behind the desk,
21 the 81st Precinct upon my arrival.

22 Q. Was there a reason the
23 conversation took place behind the
24 sergeant's desk at the 81 or just you
25 remember that's where it happened?

Page 69

1 SHANTEL JAMES

2 Objection. You could answer.

3 A. No.

4 Q. Did anybody from the hospital
5 provide you with any information?

6 MS. PUBLICKER METTHAM:

7 Objection. You could answer.

8 A. No.

9 Q. Did you receive any instructions
10 from anybody at the hospital?

11 MR. OSTERMAN: Objection.

12 A. No.

13 Q. You give any instructions to
14 anybody at the hospital?

15 MS. PUBLICKER METTHAM:

16 Objection. You could answer.

17 A. No, I did not.

18 Q. So when you got to the hospital
19 and Schoolcraft was in the gurney, you and
20 Sadowsky sat down in chairs and you were
21 watching him; is that correct?

22 MS. PUBLICKER METTHAM:

23 Objection. You could answer.

24 A. Yes.

25 Q. And is it fair to say that

Page 145

1 SHANTEL JAMES

2 the other lawyers will have questions for
3 you. Thank you.

4 A. Yes.

5 MR. SMITH: So we're going off
6 the record, it's 1:58.

7 (Whereupon, a recess was taken.)

8 MR. SMITH: Going back on the
9 record. I don't have any more
10 questions at this time. Thank you.

11 MS. PUBLICKER METTHAM: What
12 time is it?

13 MR. SMITH: It's 2:05.

14 MS. PUBLICKER METTHAM: I have
15 one question. Clarifying question.

16 EXAMINATION BY

17 MS. PUBLICKER METTHAM:

18 Q. Sergeant James, did you believe
19 that Officer Schoolcraft was a prisoner
20 whose phone call had to be monitored or
21 restricted?

22 MR. SMITH: Objection. Leading.

23 A. No, I did not.

24 EXAMINATION BY

25 MR. KOSTER:

Page 146

1 SHANTEL JAMES

2 Q. Good afternoon. I have a couple
3 of questions for you. Did you ever speak
4 with a Dr. Aldana-Bernier at Jamaica
5 Hospital about Adrian Schoolcraft?

6 A. Not to my knowledge.

7 Q. Did you ever speak with a Dr.
8 Isakov at Jamaica Hospital regarding Adrian
9 Schoolcraft?

10 A. Not to my knowledge.

11 Q. Did you ever direct anyone to
12 provide any information to any physician at
13 Jamaica Hospital?

14 A. No, I did not.

15 Q. Did you ever direct anyone to
16 provide any information to any nurses or
17 staff at Jamaica Hospital?

18 A. No, I did not.

19 Q. Did anyone request that you
20 provide information to anyone at Jamaica
21 Hospital regarding Adrian Schoolcraft?

22 A. No.

23 Q. Did anyone ask you to compile
24 any information that they told you would be
25 provided to anyone at Jamaica Hospital?

Page 147

1 SHANTEL JAMES

2 MS. PUBLICKER METTHAM:

3 Objection. You could answer.

4 A. No.

5 Q. On the logbook that was marked
6 as Exhibit 117, did the entry start on
7 October 31st or on November 1st?

8 A. It is written as 1/1/09, but
9 it's actually 10/31, because we work a day
10 ahead. So we work one day for the next. So
11 in all actuality it was December 31st --

12 Q. You mean November 31st?

13 MS. PUBLICKER METTHAM: October.

14 A. I'm sorry October 31st, but we
15 work for the next day, so the entry is
16 written as November 1st.

17 Q. And it says ten, looks like dot
18 84, is that a police code number or is that
19 referring to some kind of assignment?

20 A. Yes. It is a police code and it
21 means that I am present at the location.

22 MR. KOSTER: I don't have
23 anything else.

24 EXAMINATION BY

25 MR. OSTERMAN: